

*Conflicts of Interest
File*

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OGC REVIEW
COMPLETED

11 June 1963

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: President's Memorandum, "Preventing
Conflicts of Interest on the Part of
Special Government Employees"

1. This memorandum is for information. The purpose is to bring to your attention the above Memorandum issued by the President on May 2, 1963.

2. The occasion for the issuance of the President's Memorandum was the coming into force on January 21, 1963 of Public Law 87-849, an Act "To strengthen the criminal laws relating to bribery, graft, and conflicts of interest, and for other purposes." The Act, insofar as it modified the conflicts-of-interest laws, is for the purpose of simplifying and strengthening those laws and, as the Senate Report states:

"Second, in the interest of facilitating the Government's recruitment of persons with specialized knowledge and skills for service on a part-time basis, it would limit the impact of those laws on the persons so employed without depriving the Government of protection against unethical conduct on their part."

Senator Jackson, during the course of the deliberations by the Senate Subcommittee on National Policy Machinery, stated:

"Probably the most serious obstacle to bringing people from business and the professions into top level posts in the Federal Government arises out of the vagueness of the laws and regulations dealing with conflicts of interest."

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3. The need of the Government to obtain the services on a part-time basis of specialists and experts who have employment commitments and financial interests outside the Government is one element of the broader problem of effectively staffing and organizing the Government in this age where Government is large and has impact throughout our society and economy and where problems are both complex and sophisticated. The recent Pay Reform Act and the matter of contracting for services for the Government are of the same pattern. Congressional committees, a special committee of the Association of the Bar of the City of New York, a Presidential advisory panel on ethics and conflicts of interest in Government, and others, have considered various aspects of these problems.

4. Prior to the new law, the conflicts-of-interest statutes did not distinguish between regular employees and consultants and advisors (special employees). The new statute does distinguish in some particulars. A regular employee may not represent anyone before a court or Government agency in a matter in which the United States is a party or has an interest; this prohibition applies in the case of the special employee only if he at any time participated personally and substantially for the Government. The regular employee may not participate in a governmental capacity in any matter in which he or any member of his immediate family or certain business associates have a financial interest. This prohibition applies also to the special employee. The regular employee may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government; this does not apply to the special employee. The regular employee may not, for one year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibilities during the last year of his Government service; this applies also to the special employee. The regular employee may not receive any salary or supplementation of salary from a private source as compensation for a service to the Government. This prohibition does not apply with respect to the special employee.

5. In addition to the statutory rules, the President stated:

"...there are elementary rules of ethics in the conduct of the public business by which all those who serve the Government are bound. That an individual may serve the Government only occasionally and for brief periods does not relieve him from the obligation to abide by those rules. That he may be needed to bring rare or specialized talents and skills to the Government does not mean that he should be considered for a waiver. The people of the nation are entitled to ethical behavior of the highest order in the conduct of their Government's affairs, from the occasional employee no less than from career personnel."

The President further stated that there are standards of ethics having special significance in the case of work of advisors and consultants. He must not use, or appear to use, his public office for private gain; he may not use his position to coerce or appear to coerce another person for financial benefit to himself; he may not receive or solicit gifts if the acceptance thereof would result in, or appear to result in, the loss of complete independence or impartiality in serving the Government.

6. The President directed that all departments and agencies take appropriate administrative steps. They are to:

(a) bring this Memorandum to the attention of their advisors and consultants and to the attention of all regular employees who supervise advisors and consultants;

(b) review their rules and regulations and make appropriate revisions to promote the policies set forth in the Memorandum; and

(c) take such other measures as may be appropriate to impress upon the consultant and advisor and upon Government officials with whom they work, that they have a responsibility to avoid situations in which a potential conflict of interest may exist. These individuals should also be cautioned to avoid situations in which a special Government employee might be

thought to be influencing governmental action in matters with regard to which he has a financial or other personal interest, or to be using inside information for private gain."

Also, the Memorandum directs that each department at the time of employing a consultant or advisor require him to supply it with a statement of all other employment and to list such other financial information "as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform." These statements in turn should be reviewed by those persons responsible for the employment of the consultant to assist them in applying the criteria for disqualification as set forth in the Memorandum.

7. This office, in coordination with the components concerned, has initiated action to revise present procedures relating to consultants and advisors to insure Agency compliance with the policy direction set forth in the Memorandum.

/s/
LAWRENCE R. HOUSTON
General Counsel

cc: DDCI
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OGC subject Personnel 12 w/cy 2 May memo
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